

By: West

S.B. No. 1766

A BILL TO BE ENTITLED

AN ACT

relating to requiring a person who is the subject of a family violence protective order to surrender firearms owned by the person.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 236, Local Government Code, is amended by adding Section 236.004 to read as follows:

Sec. 236.004. COUNTY TASK FORCES FOR SURRENDER AND RETURN OF FIREARMS DUE TO FAMILY VIOLENCE. (a) In this section:

(1) "Family violence center" means a public or private nonprofit organization that provides, as its primary purpose, services to victims of family violence, including the services under Section 51.005(b)(3), Human Resources Code.

(2) "Firearm" has the meaning assigned by Section 46.01, Penal Code.

(3) "Task force" means a task force for the surrender and return of firearms due to family violence, as created by a county under this section.

(4) "Victim of family violence" has the meaning assigned by Section 51.002, Human Resources Code.

(b) Each county commissioners court shall establish a task force for the surrender and return of firearms due to family violence, including the following members if applicable for the county:

1 (1) the chief administrative officer of a family
2 violence center or the chief administrator's designee;

3 (2) the chief of police of the municipality having the
4 largest population in the county or the chief's designee;

5 (3) the sheriff of the county or the sheriff's
6 designee;

7 (4) a judge of a court in the county with jurisdiction
8 over cases involving family violence; and

9 (5) a prosecutor with jurisdiction in the county over
10 cases involving family violence.

11 (c) The county commissioners court shall call the first
12 meeting of the task force at which the members shall elect a
13 presiding officer. All subsequent meetings shall be held at the
14 call of the presiding officer.

15 (d) The presiding officer may appoint additional members to
16 the task force if necessary for the task force to complete its
17 duties under Subsection (g).

18 (e) The task force may consult with individuals or
19 organizations having knowledge and experience in the issues of
20 firearms and family violence.

21 (f) A vacancy for a member of the task force shall be filled
22 immediately and in the same manner as the original appointment.

23 (g) The task force shall develop policy recommendations,
24 model forms, and guidelines for best practices related to the
25 surrender, receipt, storage, return, and disposal of firearms due
26 to an order prohibiting a person from possessing a firearm
27 following a finding of family violence entered by a court or an

1 arrest or charge for an offense involving family violence,
2 including:

3 (1) a protective order issued under Title 4, Family
4 Code, or Chapter 7A, Code of Criminal Procedure; or

5 (2) a magistrate's order of emergency protection
6 issued under Article 17.292, Code of Criminal Procedure.

7 (h) In developing the recommendations, forms, and
8 guidelines required under this section, the task force shall:

9 (1) consult with a family violence advocacy
10 organization that provides services throughout the state;

11 (2) prioritize the safety of victims of family
12 violence and law enforcement personnel;

13 (3) ensure due process is provided;

14 (4) provide specific guidance on the surrender,
15 receipt, and storage of a firearm and the return or disposal of a
16 firearm;

17 (5) require proof of compliance with orders requiring
18 the surrender of a firearm; and

19 (6) provide for an enforcement option if compliance is
20 not proven within 48 hours of the issuance of an order requiring
21 surrender of a firearm.

22 (i) The task force shall make available all
23 recommendations, forms, and guidelines developed under this
24 section to all judges with jurisdiction over cases involving family
25 violence in the county and all law enforcement agencies with
26 jurisdiction in the county.

27 (j) The task force shall meet not later than the 90th day

1 following the end of each regular legislative session to review and
2 amend any recommendations, forms, or guidelines developed under
3 this section.

4 (k) Not later than December 1 of each odd-numbered year, the
5 task force shall provide the county commissioners court a report
6 including:

7 (1) a list of task force members;

8 (2) a summary of all recommendations, forms, and
9 guidelines developed under this section;

10 (3) a description of practices and procedures in the
11 courts and law enforcement agencies within the county in regard to
12 the surrender, receipt, storage, return, and disposal of firearms
13 due to family violence; and

14 (4) a description of potential sources of funding
15 available to implement recommendations.

16 (1) The commissioners courts of multiple counties may agree
17 to form a regional task force under this section to serve the needs
18 of all counties in the agreement.

19 SECTION 2. Article 7A.05, Code of Criminal Procedure, is
20 amended by adding Subsection (b-2) to read as follows:

21 (b-2)(1) In an order under Subsection (a)(2)(D), if the
22 applicant's relationship to or association with the alleged
23 offender is described by Section 71.0021(b), 71.003, or 71.005,
24 Family Code, the court may also order the alleged offender to
25 surrender all firearms owned by the offender.

26 (2) Any order entered under this subsection must:

27 (A) provide notice to the alleged offender;

1 (B) provide for the receipt and storage of and
2 for the return or disposal of a surrendered firearm; and

3 (C) require proof of compliance.

4 (3) When entering an order under this subsection, the
5 court may adopt a recommendation, model form, or guideline
6 developed by a task force under Section 236.004, Local Government
7 Code, for the county in which the court is located.

8 SECTION 3. Article 17.292, Code of Criminal Procedure, is
9 amended by adding Subsection (1-1) to read as follows:

10 (1-1)(1) If an order for emergency protection issued under
11 this article prohibits the defendant from possessing a firearm and
12 if the defendant was arrested for an offense involving family
13 violence, the magistrate may also order the defendant to surrender
14 all firearms owned by the defendant.

15 (2) Any order entered under this subsection must:

16 (A) provide notice to the defendant;

17 (B) provide for the receipt and storage of and
18 for the return or disposal of a surrendered firearm; and

19 (C) require proof of compliance.

20 (3) When entering an order under this subsection, the
21 magistrate may adopt a recommendation, model form, or guideline
22 developed by a task force under Section 236.004, Local Government
23 Code, for the county in which the court is located.

24 SECTION 4. Section 85.022, Family Code, is amended by
25 adding Subsections (c-1) and (c-2) to read as follows:

26 (c-1) In an order under Subsection (b)(6), the court may
27 also order the person to surrender all firearms owned by the person.

1 Any order entered under this subsection must:

2 (1) provide notice to the person;

3 (2) provide for the receipt and storage of and for the
4 return or disposal of a surrendered firearm; and

5 (3) require proof of compliance.

6 (c-2) When entering an order under Subsection (c-1), the
7 court may adopt a recommendation, model form, or guideline
8 developed by a task force under Section 236.004, Local Government
9 Code, for the county in which the court is located.

10 SECTION 5. Notwithstanding the requirement in Section
11 236.004, Local Government Code, as added by this Act, that a report
12 be submitted by December 1 of each odd-numbered year, a task force
13 created under that section shall submit its first report to the
14 county commissioners court not later than June 1, 2020.

15 SECTION 6. The changes in law made by this Act apply only to
16 a protective order or magistrate's order of emergency protection
17 entered on or after the effective date of this Act. A protective
18 order or magistrate's order of emergency protection entered before
19 the effective date of this Act is governed by the law in effect on
20 the date the order was entered, and the former law is continued in
21 effect for that purpose.

22 SECTION 7. This Act takes effect September 1, 2019.